

Notice of Allowability

Application No.

10/824,527

Examiner

Jehanne S. Sitton

Applicant(s)

KIM ET AL.

Art Unit

1634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/1/2007.
2. ☒ The allowed claim(s) is/are 1-9 and 12-14.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Rebecca McNeill on April 7, 2008.

The application has been amended as follows:

In Claim 6, line 2, please delete the recitation of "chosen from", and insert instead -- selected from the group consisting of--.

In Claim 7, line 2, please delete the recitation of "chosen from", and insert instead -- selected from the group consisting of--.

Claim 8 (Amended) The method of claim 5, wherein the *groEL2* gene fragment of a reference strain is selected from the group consisting of [chosen from] the nucleotide sequences of SEQ ID NOS [43-61] 43-44, 47, 49-51, 55-61.

In claim 13, line 4, delete "44-61" and insert instead --44, 47, 49-51, 55-61--.

2. The restriction requirement between Group I and Group II is withdrawn. The method claims are rejoined as the method claims include all the limitations of an allowed product claim. It is noted that the restriction requirement between the different SEQ ID NOS was withdrawn in the Office Action dated 8/2/2007.

3. The following is an examiner's statement of reasons for allowance: The claims are directed to nucleic acid molecules consisting of each of SEQ ID NOS 1-44, 47, 50-51, 55-60 and

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61. Claim 4 is directed to an isolated nucleic acid molecule comprising SEQ ID NO: 43. Claim 14 is directed to an isolated groEL2 gene fragment produced by amplification from a microorganism with the primer of SEQ ID NO: 1 and the primer of SEQ ID NO: 2, wherein the microorganisms are set forth in the claim. Claims 5-9 are directed to a method of identifying a *Streptomyces* species comprising using a primer of SEQ ID NO: 1 or a primer of SEQ ID NO: 2. The claims are allowable over the prior art because the prior art does not teach or fairly suggest a nucleic acid molecule consisting of SEQ ID NO: 1 or 2, methods of amplification using one of the molecules, or products produced by nucleic acid amplification of the microorganisms disclosed in claim 14, with the primers of SEQ ID NO: 1 and 2. Further, the prior art does not teach or suggest an isolated nucleic acid molecule comprising SEQ ID NO: 43, or a nucleic acid molecule that consists of any one of SEQ ID NOS 3-44, 47, 49-51 or 55-61.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Jehanne Sitton whose telephone number is (571) 272-0752. The examiner can normally be reached Monday, Wednesday and Thursday from 9:00 AM to 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ram Shukla, can be reached on (571) 272-0735. The fax phone number for this Group is (571) 273-8300.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

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For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199.

/Jehanne Sitton/
Primary Examiner
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